BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **MELISSA G. KYRIMIS, M.D.** Holder of License No. **25314** For the Practice of Allopathic Medicine In the State of Arizona.	Board Case No. MD-03-1346A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** (Letter of Reprimand)

The Arizona Medical Board ("Board") considered this matter at its public meeting on April 13, 2005. Melissa G. Kyrimis, M.D., ("Respondent") appeared before the Board with legal counsel Jeffrey A. Zick for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue the following findings of fact, conclusions of law and order after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 25314 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-03-1346A after receiving notification of a medical malpractice settlement involving Respondent's care and treatment of a 30 year-old female patient ("CT"). CT first presented to Respondent in July 2000 complaining of pelvic pain. CT had previously undergone a bilateral tubal ligation and complained of increasing menstrual flow, increasing pelvic pain and dyspareunia. A January 4, 2001 CT scan of CT's abdomen revealed a 4.5 cm left adnexal mass consistent with an ovarian teratoma. A follow-up January 11, 2001 pelvic ultrasound showed a presumed dermoid cyst involving the left ovary with a mildly enlarged uterus with no distinct evidence of fibroid. The body of the ultrasound report noted "[a]s was demonstrated on the previous CT evaluation, there is a mixed echogenic mass lesion involving the

right ovary." The report concluded "[p]resumed dermoid versus teratoma involving the left ovary." Respondent's diagnosis was "ovarian cyst presumably dermoid in nature on CT scan and menorrhagia." Respondent scheduled CT for surgery.

4. Respondent testified that prior to practicing in Arizona she practiced in New Mexico for four and one-half years and the care in this case occurred in New Mexico. Respondent testified CT presented with pain in the lower right quadrant. Respondent noted that from CT's history and physical the pain was on the right side and CT herself told Respondent there was a cyst. Respondent stated she had access to the films and reports regarding CT and she looked through the reports and through the notes of CT's primary care physician. Respondent testified there was a report saying there was a dermoid cyst visible on an ultrasound and the report made mention of "right" and "left" so she went to address the issue with the radiologist who provided the reports. Respondent noted she was not able to find the specific radiologist, but reviewed the films with another radiologist ("Radiologist") who was part of the same group as the reporting radiologist. Respondent testified she and Radiologist reviewed the films and, at that time, she understood the dermoid cyst was on CT's right side.

5. Respondent testified she counseled CT on the procedure and then went on to perform the procedure. Respondent testified she went in with the laparoscope and did not find anything that looked like anything she could resect on the right ovary. Respondent noted she then looked at the left ovary and it appeared normal. Respondent testified that, although her intention was to do a cystectomy and remove the dermoid, she had counseled CT that she might have to remove the ovary on the right side and that is what she did. Respondent noted CT's pain resolved, but looking back it is clear the dermoid was on the left. Respondent testified CT subsequently underwent additional surgery. Respondent testified she respectfully disagreed that the right ovary was healthy and at the time of surgery it was noted to be enlarged and there were also numerous subscapular follicular cysts, which could be consistent with polycystic ovarian syndrome.

Respondent noted this syndrome was not diagnosed in CT's case, although she did seem to have chronic anovulation and irregular periods.

6. Respondent testified she realizes that ultimately the wrong ovary was removed and she now does things differently. Respondent testified she addresses pelvic pain in a whole different way and now involves other specialists, people who might be more attuned to pain issues and addressing pain issues. Respondent stated she will refer patients to pain specialists and, if she believes there is something going on with the bladder or kidney, she will refer to the appropriate specialist. Respondent also testified if she is not clear on a radiology film she will get a second opinion, even if the radiologist tells her something is there.

7. Respondent was asked if, prior to performing the surgery, she looked at the films and reports and questioned the inconsistency of "right" versus "left." Respondent testified she did look at the films and the reports and, when she saw the ultrasound report where it changes from "left" to "right," and then saw the CT scan report and there certainly was what was described as the teratoma on the left and then something on the right, she went to the radiology department and took out the films and reviewed them with Radiologist. Respondent testified her recollection is that the teratoma was on the right side. Respondent went on to testify that when she then did the laparoscopy, the right ovary was enlarged and the left ovary looked normal.

8. Respondent was asked if she thought about doing anything else during the surgery to evaluate the left ovary because the operative note indicates only "[l]eft ovary is normal." Respondent testified she did not because the left ovary looked normal and she had no reason to do anything more because her concern was the right-sided pain and the dermoid on the right side. Respondent noted the right ovary was enlarged and she did not see any other reason to document anything else. The Board noted the films showed the left ovary with a dermoid larger than the right and asked Respondent what she was seeing at the procedure that would cause her to leave the left ovary alone. Specifically, Respondent was asked if there was anything she would consider

doing to evaluate the left ovary if she were looking back, knowing she had a dermoid, what could she do to improve that. Respondent testified that looking back, she would have gotten the films and taken another look, but at the time she was doing the procedure she felt her process was "A, B, C, and D and when she came to D, that is where she was at. Respondent noted she did not have any reason to believe her process was flawed, but looking back, now that she knows it was there, she would have brought in the films. Respondent also testified that at the time of surgery if she had seen anything on the left ovary that would have pushed her to get the films she would have, but there was nothing there – it was a beautiful looking ovary from what she could tell.

9. Respondent was asked if CT had any other pathology of the pelvis that would create the pelvic pain. Respondent testified she did not. Respondent testified dermoids can cause pelvic pain, but do not always. Respondent testified approximately 50-60% of them are asymptomatic, but can cause pelvic pain – very localized pain. Respondent noted they can also cause dysmenorrhea and that they cause pain because they are heavier, but at the time, there was not anything to suggest that. Respondent was asked the bilaterality rate of dermoids. Respondent noted it was about 15-20%. Respondent was asked if she knew she had a dermoid in one ovary would she not look at the other ovary, open it up during the procedure. Respondent testified she did not consider it at the time.

10. The Board noted that although CT had undergone a tubal ligation and the removal of the ovary did not impact on CT's family plans, the removal of the healthy ovary would have implications for hormonal treatment in a young woman. Respondent testified the pathology of CT's subsequent surgery showed her uterus at approximately 240 grams and noted the dermoid cyst on the left ovary. However, the dermoid cyst was two centimeters in size and the pathology report said it was centrally located. Respondent also stated that hormone therapy is a significant aspect of CT's case. Respondent testified that there are not as many studies involving hormone

therapy in young women and given CT's family history of breast cancer she could not be on hormone therapy for very long.

11. Respondent was asked the size of a normal ovary. Respondent testified the largest dimension for a normal ovary is just over three centimeters and the pathology on CT's right ovary was five centimeters. Respondent testified she routinely does intraoperative photographs of the pathology and did so in CT's procedure, specifically of the right ovary and all of the right adnexal structures. Respondent noted she takes photographs of the posterior cul-de-sac behind the uterus and the uterosacral ligaments and she looks at the anterior cul-de-sac of the uterus and takes photographs. Respondent noted that CT's left ovary looked normal in the photographs.

12. The standard of care required Respondent to remove the proper ovary during the surgical procedure.

13. Respondent fell below the standard of care when she removed the incorrect ovary.

14. The patient was harmed because she was required to undergo additional surgery. The patient was subject to the potential harm of experiencing early menopause and any resulting hormone therapy.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q)("[a]ny conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.") and A.R.S. § 32-1401(27)(ll)("[c]onduct the

board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.")

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that Respondent is issued a Letter of Reprimand for removing the wrong ovary during surgery resulting in the patient having to undergo a second surgery.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that she has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-102. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 6 day of July, 2005.

THE ARIZONA MEDICAL BOARD

By _____
TIMOTHY C. MILLER, J.D.
Executive Director

ORIGINAL of the foregoing filed this
7 day of July, 2005 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing
mailed by U.S. Certified Mail this
7 day of July, 2005, to:

Jeffrey A. Zick
Fadell, Cheney & Burt, P.L.L.C.
1601 North 7th Street – Suite 400
Phoenix, Arizona 85006-2204

Executed copy of the foregoing
mailed by U.S. Mail this
7 day of July, 2005, to:

Melissa G. Kyrimis, M.D.
Address of Record

Patricia Reynolds